IN THE HIGH COURT OF JUDICATURE FOR

RAJASTHAN AT JODHPUR

::::

O R D E R

Puran Chand
Vs.
State of Rajasthan & Anr.

S.B. CIVIL WRIT PETITION NO.2870/2003 UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA.

DATE OF ORDER :: 01st December, 2006

PRESENT

HON'BLE SHRI JUSTICE MOHAMMAD RAFIQ

Mr.Trilok Joshi, Advocate for the petitioner.
Mr.Draun Kaushik, Advocate for the respodents.

BY THE COURT

The petitioner in the present writ petition has challenged the order dated 19th May, 2003 vide which the UIT, Sri

Ganganagar unanimously decided to revert the petitioner from the post of Mate to that of Beldar. The petitioner was promoted on the post of Mate on recommendation of the Promotion committee of the Trust dated 27th November, 2002. The representation was submitted by Amar Chand Beldar on the promise that he was the senior most Beldar and therefore his case has wrongly been ignored for promotion. The Trust on examination of entire matter found that the correct position of the Rules was not placed before the Promotion Committee and the petitioner was wrongly promoted in preference to the said Shri Amar Chand, senior most Beldar. The Trust therefore recommended promotion of Shri Pooran Chand Beldar while deciding to revert the petitioner in doing so, the Trust also considered the service records and merit of the said Shri Amar Chand Beldar.

Shri Trilok Joshi learned counsel for the petitioner argued that prior to passing of the aforesaid order, the respondents did not provide any opportunity of hearing to him inasmuch as the order has been passed in utter disregard of principles of

natural justice.

On the other hand, Shri Draun Kaushik learned counsel for the respondents argued that the petitioner was wrongly promoted on recommendation of the Promotion Committee but on receiving representations their-against, the Trust examined the matter afresh and found that Amar Chand was the senior most Beldar and therefore he had a preferential claim over the petitioner for being promoted particularly when there was no adversity in his service record. Although in the normal circumstances, I would have considered it appropriate to remand the matter for providing opportunity of hearing to the petitioner with a direction to the respondents to pass fresh order but that would be a mere ritual resulting into ultimately the same order being passed again.

In the facts of the present case, I find that the petitioner has not disputed the basic fact that Amar Chand Beldar was senior to him and has not even impleaded said Shri Amar Chand Beldar as party respondent to the writ petition. There is

no reason to quash the order of his promotion more particularly when the petitioner is junior to him. There being no merit in the present writ petition, the same is therefore dismissed.

Learned counsel for the petitioner at this state, prays for liberty to submit representation to the respondents for consideration of his case again for promotion if any vacancy is available with them or if and when any such vacancy arises in future. He is always free to do so and it is expected from the respondents that case of the petitioner shall be considered in accordance with the rules.

With these observations the writ petition is accordingly disposed of.

[MOHAMMAD RAFIQ],J.

AKC.